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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,460	12/13/2002	Dieter Gneiting	449122025300	4705
25227	7590	12/15/2006		
MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102			EXAMINER DEGRANO, BRIAN L	
			ART UNIT 2616	PAPER NUMBER

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/070,460

Applicant(s)

GNEITING ET AL.

Examiner

Brian L. DeGrano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/7/2002.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 5 is objected to because of the following informalities: "control" should be replaced with "controlling". Appropriate correction is required.
- Claim 6 is objected to because of the following informalities: "is" should be replaced with "are". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Carusone, Jr. et al. (US Patent No. 5,299,201, hereinafter Carusone, Jr. et al.).
- Regarding claims 1 and 5, Carusone Jr. et al. disclose a test device which is activated or looped in at a splitting point (Column 5, lines 54-61 – fault analyzer can be placed anywhere in the system) and is formed by opening the nailed-up connection (Column 4 lines 18-24 – switches can be static) with a coupling switch inside one of the exchanges (Figure 1, Ref. No. 10) and a network controller (Fig. 1, Ref. No. 40) remotely controlling activation of mirror devices which send back incoming signals from a point of the nailed-up connection remote from the splitting point in the direction of the test device until the faulty route section of the nailed-up connection has been found

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(Column 6, lines 2-5 – the fault analyzer is able to determine the location of the link fault remote from the control unit) and the test device sending a test signal to the mirror device activated and evaluating the mirrored signal for faults (Column 6, lines 15-16).

- Regarding claims 2 and 6, Carusone, Jr. et al. disclose that the mirror devices are activated in switching networks between 2 route sections (Figure 1).
- Regarding claims 3, 7, and 9-10, Carusone, Jr. et al. disclose that the test device has 2 user channels (Column 5, lines 61-63).
- Regarding claim 8, it is inherent that a network would have some sort of terminal to activate it.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carusone, Jr. et al. in view of Demakakos (US Patent No. 6,891,851, hereinafter Demakakos).

Carusone, Jr. et al. disclose all the limitations of claim 4 except that the test device sends out a predetermined test bit pattern.

Demakakos teaches a test device that sends out a test pattern over the line in an NUC.

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At the time of the invention, it would have been obvious to one of ordinary skill in the art to add the test pattern from Demakakos to the test device disclosed in Carusone, Jr. et al.

The motivation for doing so would have been to effect loop-backs through the line components in order to conduct certain tests (Demakakos – Column 9, lines 34-35) which observe the test pattern and the signal it receives back to detect any errors in the system (Demakakos – Column 9, lines 44-46).

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian L. DeGrano whose telephone number is 571-270-1138. The examiner can normally be reached on Monday through Friday 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BD

A handwritten signature in black ink, appearing to read 'Wing Chan', with a stylized flourish at the end.

WING CHAN  
SUPERVISORY PATENT EXAMINER